

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.2244 of 1995 (O&M)
Date of decision: 26.04.2017

State of Punjab & others

.... Petitioner

vs.

Roshan Lal

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. B.M.Vinayak, DAG, Punjab.

Rajiv Narain Raina, J.(Oral)

The present appeal was admitted on 09.11.1995 for regular hearing. No interim order was granted. The Courts below have quashed an order forfeiting two years of service imposed on the respondent on the charge of carelessness. The punishment was imposed after charge was proven in the departmental enquiry. The punishment order was challenged in the suit. The said suit was dismissed on 15.06.1994 by the learned Sub Judge, II Class, Faridkot.

The Addl. District Judge, Faridkot did not agree with the trial court and reversed the judgment and decree. The Court of first appeal has declared the orders dated 23.03.1991, 27.07.1991 and 11.12.1991 being the penalty order passed by the disciplinary authority, the order in appeal and afterward revision, as illegal, null and void and arbitrary and the plaintiff held to be entitled to restoration of two years of approved service by the judgment and decree dated 21.04.1995. The learned Addl. District Judge,

Faridkot has found several fatal lacunas in the conduct of the departmental proceedings inasmuch as the enquiry officer did not record the statement of witnesses on oath and acted as presenting officer as well as enquiry officer. Even copy of the preliminary report of the enquiry/inspection conducted by Mr. Kehar Singh, Superintendent of Police was not supplied to the respondent for comments therefore the report was used against the petitioner behind his back. The charge-sheet and enquiry proceedings stood vitiated for want of prior sanction from the District Magistrate to hold enquiry against the plaintiff as required by the Punjab Police Rules 1934, the plaintiff being a policeman. The Senior Superintendent of Police, Faridkot left an incurable void in the proceedings which the court of first appeal held to be in favour of the plaintiff. In short, the principles of natural justice were not followed and on this premise, the suit was decreed in appeal.

I find no legal infirmity in the reasoning of the learned Addl. District Judge, Faridkot, who by his judgment has correctly set aside the judgment and decree of the trial Court. There is thus no life in the appeal filed by the State of Punjab and the same is dismissed.

26.04.2017
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(RAJIV NARAIN RAINA)
JUDGE

1. *Whether speaking/non-speaking?*
2. *Whether reportable?*

Yes
No